IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC.APPLICATION NO.57 OF 2003

IN

BOMBAY CITY CIVIL COURT S.C. SUIT NO.5452 OF 1983

Christa Mistry & Ors. ...Applicants

Versus

Tayabji Baug Co-operative Hsg.

Society Ltd. ...Respondents

.....

Mr.Haresh Mansukhani for Applicants.

None for Respondents.

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CORAM: A.M.KHANWILKAR, J.

APRIL 17, 2006.

P.C.

1. Heard Counsel for the Applicants. None appears for the Respondents though served.

2. The averments in this Application have remained uncontroverted. The case made out in the Application is that the Respondents have also

instituted Suit albeit before the Original Side of this Court being Suit No.2033 of 1989 relating to same subject matter. Besides, the reliefs claimed in the Suit pending before this Court are overlapping with the reliefs claimed in the Suit filed by the Applicants before the Bombay City Civil Court being Short Cause Suit No.5452 of 1983.

3. In the interest of justice, therefore, and more so to obviate inconsistent findings and decisions relating to same subject matter if rendered by two Courts, the relief claimed in this Application in terms of prayer clause (a) will have to be granted. Hence, this Application is allowed in terms of prayer clause (a). No order as to costs.

A.M.KHANWILKAR, J.